

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	10/010,786	NOVOTNY ET AL.
	Examiner	Art Unit
	John D. Lee	2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- This communication is responsive to the amendment, after final rejection, filed on September 2, 2003.
- The allowed claim(s) is/are 22-24, 26, 27, 31-34, 39-41 and 45-49.
- The drawings filed on 04 April 2002 are accepted by the Examiner.
- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a)  The translation of the foreign language provisional application has been received.
- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

7.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

8.  CORRECTED DRAWINGS must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No. \_\_\_\_\_.
  - (b)  including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- Notice of References Cited (PTO-892)
- Notice of Draftsperson's Patent Drawing Review (PTO-948)
- Information Disclosure Statements (PTO-1449), Paper No. 0903.
- Examiner's Comment Regarding Requirement for Deposit of Biological Material
- Notice of Informal Patent Application (PTO-152)
- Interview Summary (PTO-413), Paper No. \_\_\_\_\_.
- Examiner's Amendment/Comment
- Examiner's Statement of Reasons for Allowance
- Other

**EXAMINER'S AMENDMENT**

An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In the specification, on page 4, paragraph [0016] is rewritten as follows:

[0016] FIGS. 13A1-13A8 and 13B1-13B8 show one exemplary process for fabricating an electrostatic rotational comb actuator shown in FIGS. 8A, 8B, and 8C.

The above indicated amendment is required in order to more accurately identify the numbering of figures in the drawings. No consultation with applicant or applicant's representative was deemed necessary.

**EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE**

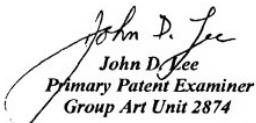
The following is an Examiner's Statement of Reasons for Allowance: All of the independent claims of the present application have been amended to include limitations that were previously determined by the Examiner to be patentably distinct over the prior art. After an updated search, these patentable distinctions remain. Reference should be made to the previous Office action (paper number 8, mailed June 3, 2003) for a complete statement of the patentable claim distinctions. Claims 22-24, 26, 27, 31-34, 39-41, and 45-49 herein are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### **DISCUSSION OF THE CITED PRIOR ART**

All of the prior art documents submitted by the applicant in the Information Disclosure Statement filed on September 2, 2003, have been considered and made of record. Note the attached initialed copy of form PTO-1449. Of these cited documents, only the Dawson et al publication (Proceedings of SPIE, vol. 4178) is considered particularly relevant to the claims as now amended. The Dawson et al publication describes monitoring and feedback circuitry for controlling MEMS devices on semiconductor wafers, but the publication does not disclose or suggest the specific implementations and details of applicant's claimed monitoring and feedback control for an optical attenuator (e.g. the feedback circuitry producing a bias signal which sets the actuator to a bias position at which movement of the actuator is damped). The document which is lined through on page 4 of the IDS was not included in the submission and thus has not been considered by the Examiner.

Any inquiry concerning the merits of this communication should be directed to Examiner John D. Lee at telephone number (703) 308-4886. The Examiner's normal work schedule is Tuesday through Friday, 6:30 AM to 5:00 PM. Any inquiry of a general or clerical nature (i.e. a request for a missing form or paper, etc.) should be directed to the Technology Center 2800 receptionist at telephone number (703) 308-0956, to the technical support staff supervisor (Team 2) at telephone number (703) 308-3072, or to the Technology Center 2800 Customer Service Office at telephone number (703) 306-3329.



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